

# HOUSE BILL No. 5747

January 14, 2010, Introduced by Rep. Pavlov and referred to the Committee on Education.

A bill to amend 1990 PA 72, entitled  
"Local government fiscal responsibility act,"  
by amending the title and sections 31, 39, 40, and 41 (MCL  
141.1231, 141.1239, 141.1240, and 141.1241).

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1  
2  
3  
4  
5  
6  
7  
8

TITLE

An act to provide for review, management, planning, and  
control of the financial operation of units of local government,  
including **ALL OPERATIONS OF** school districts **THAT MAY AFFECT THE**  
**FINANCIAL CONDITION OF THE SCHOOL DISTRICT**; to provide criteria to  
be used in determining the financial condition of a local  
government; to permit a declaration of the existence of a local  
government financial emergency and to prescribe the powers and

1 duties of the governor, other state boards, agencies, and  
 2 officials, and officials and employees of units of local  
 3 government; to provide for a review and appeal process; to provide  
 4 for the appointment and to prescribe the powers and duties of an  
 5 emergency financial manager; to require the development of  
 6 financial plans to regulate expenditures and investments by a local  
 7 government in a state of financial emergency **AND TO REGULATE ANY**  
 8 **OPERATION OF A SCHOOL DISTRICT AFFECTING THE FINANCIAL CONDITION OF**  
 9 **THE SCHOOL DISTRICT**; to set forth the conditions for termination of  
 10 a local government financial emergency; and to repeal ~~certain acts~~  
 11 and parts of acts.

12 Sec. 31. As used in this article:

13 (a) "Emergency financial manager" means the emergency  
 14 financial manager appointed under section 34.

15 (b) "Review team" means the review team designated under  
 16 section 34.

17 (C) **"REVISED SCHOOL CODE" MEANS 1976 PA 451, MCL 380.1 TO**  
 18 **380.1852.**

19 (D) ~~(e)~~-"School board" means the governing body of a school  
 20 district.

21 (E) ~~(d)~~-"School district" or "district" means a ~~local~~-school  
 22 district established under part 2, 3, 4, 5, or 6 of the school code  
 23 of 1976, being sections 380.71 to 380.485 of the Michigan Compiled  
 24 Laws, or a local act school district as defined in section 5 of the  
 25 school code of 1976, being section 380.5 of the Michigan Compiled  
 26 Laws **AS DEFINED IN THE REVISED SCHOOL CODE.**

27 (F) ~~(e)~~-"School fiscal year" means a fiscal year that

1 commences July 1 and continues through June 30.

2 (G) ~~(f)~~ "State board" means the state board of education.

3 ~~(g) "The school code of 1976" means Act No. 451 of the Public~~  
4 ~~Acts of 1976, being sections 380.1 to 380.1852 of the Michigan~~  
5 ~~Compiled Laws.~~

6 Sec. 39. The emergency financial manager shall issue to the  
7 appropriate officials or employees of the school district the  
8 orders that he or she considers necessary to accomplish the  
9 purposes of this article, including, but not limited to, orders for  
10 the timely and satisfactory implementation of a financial plan  
11 developed pursuant to section 40. An order issued under this  
12 section is binding on the school district officials or employees to  
13 whom it is issued, **INCLUDING THE SCHOOL BOARD OF THE SCHOOL**  
14 **DISTRICT.**

15 Sec. 40. (1) ~~In consultation with the school board, the~~ **THE**  
16 emergency financial manager shall develop, and may from time to  
17 time amend, a written financial plan for the school district. The  
18 financial plan shall provide for both of the following:

19 (a) Conducting the operations of the school district within  
20 the resources available according to the emergency financial  
21 manager's revenue estimate.

22 (b) The payment in full of the scheduled debt service  
23 requirements on all bonds and notes of the school district and all  
24 other uncontested legal obligations.

25 (2) After the initial development of the financial plan  
26 required by subsection (1), the emergency financial manager ~~in~~  
27 ~~consultation with the school board~~ shall regularly reexamine the

1 plan, and if the emergency financial manager reduces his or her  
2 revenue estimates, he or she shall modify the financial plan to  
3 conform to revised revenue estimates.

4 (3) The financial plan shall be in a form, and shall contain  
5 that information for each year the plan is in effect, that the  
6 school district's emergency financial manager specifies.

7 (4) The emergency financial manager **SHALL PROVIDE TO THE**  
8 **SCHOOL BOARD OF THE SCHOOL DISTRICT THE FINANCIAL PLAN OR MODIFIED**  
9 **PLAN AND** shall make public the **FINANCIAL** plan or modified plan.

10 (5) This ~~subsection shall not be construed to mean that~~ **ACT**  
11 **DOES NOT REQUIRE** the emergency financial manager ~~must~~ **TO** receive  
12 public approval **OR THE APPROVAL OF THE SCHOOL BOARD OF THE SCHOOL**  
13 **DISTRICT** before he or she implements the financial plan or any  
14 modification to the plan **OR TAKES ANY OTHER ACTION AUTHORIZED UNDER**  
15 **THIS ACT.**

16 Sec. 41. (1) Upon appointment under section 38, an emergency  
17 financial manager shall immediately assume control over all fiscal  
18 matters **AND OTHER MATTERS CONCERNING THE OPERATION OF THE SCHOOL**  
19 **DISTRICT THAT AFFECT THE FINANCIAL CONDITION** of, and make all  
20 fiscal **AND RELATED** decisions for, the school district for which he  
21 or she is appointed.

22 (2) In implementing this article and performing his or her  
23 functions under this article, an emergency financial manager may  
24 take 1 or more of the following actions:

25 (a) Examine the books and records of the school district.

26 (b) Review payrolls or other claims against the school  
27 district before payment.

1 (c) Negotiate, renegotiate, approve, and enter into contracts  
2 on behalf of the school district.

3 (d) Receive and disburse on behalf of the school district all  
4 federal, state, and local funds earmarked for the school district.  
5 These funds may include, but are not limited to, funds for specific  
6 programs and the retirement of debt.

7 (e) Adopt a final budget for the next school fiscal year and  
8 amend any adopted budget of the school district.

9 (f) Act as an agent of the school district in collective  
10 bargaining and, to the extent possible under state labor law,  
11 renegotiate existing and negotiate new labor agreements.

12 (g) Analyze factors contributing to the financial condition of  
13 the school district and recommend to the legislature steps that  
14 need to be taken to improve the district's financial condition.

15 (h) Require compliance with his or her orders, by court action  
16 if necessary.

17 (i) Require the attendance of witnesses and the production of  
18 books, papers, contracts, and other documents relevant to an  
19 analysis of the financial condition of the school district.

20 (j) Recommend to the governor, the legislature, and the state  
21 board that the school district be reorganized with 1 or more  
22 contiguous school districts.

23 (k) Consolidate divisions or transfer functions from 1  
24 division to another division within the school district and  
25 appoint, supervise, and, at his or her discretion, remove, within  
26 legal limitations, heads of divisions of the school district.

27 (l) Create a new position or approve or disapprove the creation

1 of any new position or the filling of a vacancy in a permanent  
2 position by an appointing authority.

3 (m) Seek approval from the state board for a reduced class  
4 schedule in accordance with administrative rules governing the  
5 distribution of state school aid.

6 (n) Employ or contract for, at the expense of the school  
7 district and with the approval of the superintendent of public  
8 instruction, auditors and other technical personnel considered  
9 necessary to implement this article.

10 (o) Reduce expenditures in the budget of the school district.

11 (p) Borrow money on behalf of the school district.

12 (q) Approve or disapprove of the issuance of obligations of  
13 the school district.

14 (r) Order, as necessary, 1 or more school millage elections  
15 for the school district consistent with the ~~school code of 1976~~  
16 **REVISED SCHOOL CODE**, the Michigan election law, ~~Act No. 116 of the~~  
17 ~~Public Acts of 1954, being sections 168.1 to 168.992 of the~~  
18 ~~Michigan Compiled Laws 1954 PA 116, MCL 168.1 TO 168.992~~, and  
19 sections 6 and 25 through 34 of article IX of the state  
20 constitution of 1963.

21 (s) Sell or otherwise use the assets of the school district to  
22 meet past or current obligations, provided the use of assets for  
23 this purpose does not impair the education of the pupils of the  
24 district.

25 (t) Exercise the authority and responsibilities affecting the  
26 financial condition **AND OPERATION** of the school district that are  
27 prescribed by law to the school board and superintendent of the

1 school district.

2 (U) REVIEW AND APPROVE OR DISAPPROVE ANY ACTION OF THE SCHOOL  
3 BOARD OF THE SCHOOL DISTRICT. THE SCHOOL BOARD SHALL NOT TAKE ANY  
4 ACTION THAT CREATES AN OBLIGATION OF THE SCHOOL DISTRICT WITHOUT  
5 THE APPROVAL OF THE EMERGENCY FINANCIAL MANAGER.

6 (3) After giving written notice to the superintendent of  
7 public instruction, the emergency financial manager may authorize  
8 the school district to proceed under chapter 9 of ~~title 11 of the~~  
9 ~~United States Code~~ **THE FEDERAL BANKRUPTCY CODE**, 11 U.S.C. ~~USC~~ 901  
10 to 904, ~~921 to 932,~~ and ~~941 to 946.~~ This section empowers the  
11 school district for which an emergency financial manager has been  
12 appointed to become a debtor under chapter 9 of ~~title 11 of the~~  
13 ~~United States Code~~ **THE FEDERAL BANKRUPTCY CODE**.